

Remarks

A. The Pending Claims Comply with 35 U.S.C. § 112

In response to objections based on certain informalities, appropriate corrections have been made, including canceling Claim 14.

With respect to the previous amendment of Claim 60, Applicants respectfully submit that there is support for reciting that the pourable soap is comprised of “alkali salts of mixed fatty acids”. For example, Paragraph [0032] describes a soap base that contains “natural soap without detergents/surfactants/sulfates.” A person having ordinary skill in the art (“PHOSA”) would understand “natural soap” to mean alkali salts (primarily potassium and sodium) of mixed fatty acids. This definition is the ordinary and customary meaning of the term “soap.” See, e.g., definition of soap in Merriam-Webster’s Online Dictionary (“a cleansing and emulsifying agent made usually by action of alkali on fat or fatty acids and consisting essentially of sodium or potassium salts of such acids; a salt of a fatty acid and a metal”).

Claim 64 has been canceled.

Claims 1 and 66 have been amended to recite that the solid cleansing agent pourable soap is “impregnated into” as well as distributed substantially throughout the cleansing pad. Support for this amendment is found at least in Paragraphs [0026], [0030] and [0031].

Claim 66 has been amended to recite cleansing the human body. Support for this amendment is found at least in Paragraphs [0030] and [0041].

B. The Pending Claims Are Not Anticipated By McMannus

Claims 1, 3 – 5, 7, 9, 12 – 14, 59, 61, 62, 65 and 66 stand rejected as being anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 6,187,728 (McMannus). For the following reasons, Applicants respectfully traverse and request reconsideration and withdrawal of this rejection.

Claim 1 (and, in turn, its dependent claims) and Claim 66 all require that the solid cleansing agent pourable soap be impregnated into and distributed substantially throughout a cleansing pad. For the reasons set out below, and in the Declaration of

Eric Jungermann, Ph.D. submitted pursuant to 37 C.F.R. § 1.132, Applicants respectfully submit that McMannus neither teaches nor suggests a cleansing pad in which a solid cleansing agent pourable soap is impregnated into (e.g., infused) and distributed substantially throughout a cleansing pad as claimed in the instant invention. Instead, McMannus teaches and claims a “composite article” in the shape of a fruit or vegetable. More particularly, the composite article disclosed by McMannus is comprised of two parts –a solid soap “core” (e.g., that mimics the “meat” of a fruit) that is surrounded (i.e., wrapped or covered) by a polymeric “skin” or “peel.”

McMannus describes a “solid cosmetic formulation and foamed skin composite article”. See, e.g., McMannus, Claim 1. Since “composite” is not defined by McMannus, this term is given its ordinary and customary meaning. The online version of the Merriam Webster dictionary defines composite as “made up of distinct parts.” While Applicants recognize that McMannus does teach that the “skin” (or “peel”) is preferably a sponge (see, e.g., Abstract), nowhere does McMannus teach that the “skin” (or “peel”) is in any way impregnated with a solid cleansing agent pourable soap. The soap “core” and “skin” are separate.

That the solid soap “core” and “skin” are distinct parts is further illustrated in the cross-sectional views of a fruit-shaped soap in Figures 1a, 1b, 2a and 2b of McMannus. Moreover, McMannus describes two methods for creating a fruit or vegetable-shaped soap from the two constituent parts. In a first method, a solid “core” is formed by pouring a molten soap into a suitable mold, which is then allowed to cool. The “core”, in turn, is dipped into a mixture of a polyurethane pre-polymer and toluene diisocyanate, thus coating the “core”. See McMannus, Col. 4, line 67 – Col. 5, line 2; see *also*, McMannus, Claim 10. Alternatively, a separate, pre-formed hollow polymer “skin” shell is filled with a liquefied soap, which is then allowed to harden and form a solid “core”. See McMannus, Abstract, and Col. 5, lines 9 – 11; see *also*, McMannus, Claim 13.

This fundamental point of distinction between the composite article taught by McMannus and the impregnated cleansing pad claimed in the present invention is further understood by reference to the description of function of the “skin” in the composite article disclosed by McMannus:

The skin functions to seal the fragrances and moisturizers in the soap core during storage and display. As a result, the composite article can be displayed

and sold having the appearance of a fruit or vegetable and without significant release of fragrance or moisturizer. This same composite article can then be opened ("peeled") by the consumer in an enclosed space such as a bathroom, and immediately begin releasing fragrance. The product can contain excess moisturizer without fear of leakage, and can give a superior silky feel to the skin.

See McMannus at Col. 3, lines 38 – 48. Thus, McMannus teaches a product where the "skin" merely serves as a "wrapper" that is meant to be peeled by consumer prior to use. See *also*, McMannus, Col. 1, lines 13 – 15.

In the last sentence of the first paragraph on page 4 of the Office Action, the following alternate grounds is advanced for rejecting Claims 1, 3 – 5, 7, 9, 12 – 14, 59, 61, 62, 65 and 66 under 35 U.S.C. § 102(b): "the solid cleansing agent pourable soap would *eventually* be "distributed substantially throughout said pad (*i.e.*, after use or some uses and after drying and resolidifying." (Emphasis in original.) Applicants respectfully submit that this statement is a mistaken conclusion.

First, when the "skin" wrapper is removed (*i.e.*, peeled) it is no longer possible for the soap to be distributed within the pad. Put differently, when the "skin" is removed, the article is nothing more than a solid soap. See § 1.132 Jungermann Declaration, ¶ 6.

Moreover, as explained in Paragraph 8 of the § 1.132 Jungermann Declaration, a PHOSA would understand that temperatures above 120°F can scald humans. At Col. 5, lines 26 – 29 McMannus teaches that glycerin soap melts at 160°F. Therefore, use of the solid fruit- or vegetable-shaped glycerin soap of the type described by McMannus would not melt at temperatures safe for human bathing (less than 120°F). Accordingly, since the solid soap with a "skin" covering as taught by McMannus would not melt during human bathing, it would not be distributed substantially throughout the "skin".

A further point of difference between McMannus and the instant invention is reflected in Claim 65 in which Applicants claim a cleansing pad that is sufficient for at least 20 baths or showers. Applicants respectfully submit that McMannus does not teach a cleansing pad that can be used this many times. As discussed above, McMannus is primarily directed to a composite article from which the "skin" surrounding a solid soap is removed. Applicants do, nonetheless, recognize that certain embodiments of McMannus are directed to "loose or loosely-adhered slices, such as slices of oranges (with peel attached to each slice), ... with enough soap provided in each slice for a one-time use or for several washings, depending upon the size of the slice." See, McMannus

at Col. 3, lines 48 – 53. Applicants respectfully submit that without additional teachings the disclosure quoted in the immediately preceding sentence would neither motivate nor give a PHOSA a reasonable expectation of successfully developing a cleansing pad of the type recited in Claim 65 (*i.e.*, that could be used more than 20 times). See Jungermann Declaration, ¶ 10.

Claims 6, 8, 10 and 11 stand rejected under 35 U.S.C. § 103(a) based on the teachings of McMannus. For the same reasons as presented above, reconsideration and withdrawal of these rejections is likewise respectfully requested.

Conclusion

It is respectfully submitted that all claims are now in condition for allowance, early notice of which is earnestly solicited. Should the Examiner disagree, Applicant respectfully requests a telephonic or in-person interview with the undersigned attorney to discuss and resolve any remaining issues.

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Respectfully submitted,



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